D.B. CIVIL MISC. APPLICATION NO.32/2006
(L.C. Agarwal V/s Union of India)
10.4.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P.VYAS

Mr. Kamal Dave, for the applicant.

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This application is for extension of time for completing the enquiry. At the time of passing the order dtd.9.11.2005, the statement was made by the learned counsel for the respondents that enquiry has been completed and the report has been submitted and sent to the President for obtaining the orders thereon. Since the petitioner has retired, orders have to be obtained from the President. He further stated that the enquiry report has been submitted after considering the objection filed by the petitioner.

In view of the aforesaid statement made by the learned counsel for the respondents, the Court refrained from entering into merits of the contentions raised before the Court and disposed of the writ petition with liberty to the petitioner to raise all the issues, if any adverse order is passed against him, including validity of the enquiry report

and other grounds, which may be available to the petitioner to challenge the validity of the final order passed thereon. Keeping in view that the enquiry was continuing for more than 9 years and the incumbent has already retired and the respondents have not been able to complete the enquiry within such a long period, the Court further directed that final order shall be passed within three months, failing which the enquiry shall stand lapsed and no order shall be passed thereafter.

We find that this application for extension of time has been filed by the respondents in the writ petition on the last date of expiry of three months and that too has not been prosecuted with due diligence and has been got listed after two months of expiry of three months' period which has resulted in operation of the order, by lapse of enquiry. The matter of prosecuting the enquiry cannot be turned into prosecution of the incumbent.

In the circumstances, particularly, keeping in view that even after more than 9 years to complete the enquiry, the same has not been completed and even completing the final lap of enquiry of passing the order has not been taken within long period of three months, reveals

that the respondents have not shown any urgency to complete the enquiry, we reject this application for extension of time.

(R.P.VYAS)J (RAJESH BALIA)J.

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